

CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES

ISSUED BY STATE BOARD OF ACCOUNTS

June 1997

1997 LAWS AFFECTING CITIES AND TOWNS

The following is a listing of some of the laws enacted during the 1997 legislative session. These laws are related to cities, towns, and municipally owned utilities. They are listed only to call them to your attention. If you have questions regarding legal interpretations, they should be directed to your city or town attorney. We have listed the laws in public law sequence and all references are to the Indiana Code.

PUBLIC LAW 1 - SENATE ENROLLED ACT 8 - EFFECTIVE JULY 1, 1997
FAMILY AND JUVENILE LAW - Recodifies Title 31 of the Indiana Code.

PUBLIC LAW 2 - SENATE ENROLLED ACT 7 - EFFECTIVE VARIOUS DATES
TECHNICAL CORRECTIONS - Amends various sections of the Indiana Code to correct certain errors made in 1996.

PUBLIC LAW 4 - HOUSE ENROLLED ACT 1700 - EFFECTIVE JULY 1, 1997
ANNEXATION - Amends IC 36-4-3-13 - Corrects the federal census statutory references for establishing population density in IC 1-1-4-5(17).

PUBLIC LAW 5 - SENATE ENROLLED ACT 346 - EFFECTIVE JULY 1, 1997
1925, 1937, 1953 AND 1977 POLICE AND FIRE PENSION PLANS -Amends IC 36-8-5-7, States that a policeman or a firefighter does not have to pay member assessments while on a leave of absence that qualifies for the protections afforded by the Uniformed Services Employment and Reemployment Rights Act.

PERF - Amends IC 5-10.3 - Allows PERF Board to establish a voluntary supplemental retirement plan. Further allows a member to purchase out-of-state service credits under certain circumstances and changes terminology relating to the Veterans Reemployment Rights Act to the Uniformed Services Employment and Reemployment Rights Act. Allows for cash rollover of contributions for additional service credits. Permits retirees with 15 years or more of creditable service that have withdrawn from the fund before the age of 65 to apply for reinstatement of eligibility.

CITY POLICE AND FIRE RESIDENCY- NONCODE - Requires members of city police and fire departments to reside in Indiana in the county or contiguous county in which the city is located.

PUBLIC LAW 6 - HOUSE ENROLLED ACT 1783 - EFFECTIVE VARIOUS DATES
PROPERTY TAXATION - Amends numerous sections of the Indiana Code - Establishes a property tax study committee. Makes numerous changes to property assessment laws.

PUBLIC LAW 7 - HOUSE ENROLLED ACT 1277 - EFFECTIVE MAY 15, 1997
WATER RESOURCES STUDY COMMITTEE - Adds IC 2-5-24 - Creates a new water resources study committee to study and make recommendations concerning all matters relating to surface and ground water resources in Indiana.

PUBLIC LAW 8 - HOUSE ENROLLED ACT 1404 - EFFECTIVE MAY 1, 1997

DISTRIBUTION OF STATE LAWS - Amends IC 2-6-1.5 - Requires the legislative services agency to distribute enrolled acts passed by the general assembly to each county clerk within 14 days after the last day the governor must take action on such acts.

PUBLIC LAW 9 - HOUSE ENROLLED ACT 1520 - EFFECTIVE JULY 1, 1997

INDIANA CODE BOOKS - Amends IC 2-6-1.5-4- Requires the Legislative Services Agency (LSA) to provide, from supplies remaining after the regular distributions are made, copies of the Indiana Code and supplements to a local official who makes a written request to the legislative services agency for copies. The cost to a local official for a copy is the same as the cost of a copy sold under IC 2-6-1.5-4(h). A local official:

(1) who:

- (A) does not receive copies of the Indiana Code and supplements from those distributed to the clerk of the circuit court; and
- (B) requests, receives, and pays for copies of the Indiana Code and supplements; or

(2) who:

- (A) submitted a written request to the agency for copies of the Indiana Code and supplements; and
- (B) did not receive copies of the Indiana Code, or a supplement, or both, because the supplies were exhausted,

must be added to the distribution list for copies of the Indiana Code and supplements that is maintained by the LSA. A local official who is added to the distribution list maintained by the LSA is entitled to receive one (1) copy of all subsequent publications of the Indiana Code and the supplements to the Indiana Code upon payment of the cost for the copy.

The contact person at LSA is Mr. Jeff Porter at (317) 232-9856.

PUBLIC LAW 10 - HOUSE ENROLLED ACT 1542 - EFFECTIVE VARIOUS DATES

STATE BOARD OF ACCOUNTS SCHOOLS - Amends IC 5-11-14-1 - Each city and town official attending a state-called meeting shall be allowed, for each mile necessarily traveled in going to and returning from the meeting by the most expeditious route, a sum for mileage at a rate determined by the county fiscal body.

PUBLIC DEPOSITORY LAW - Amends IC 5-13-4-19, IC 5-13-6, and IC 5-13-7 and repeals IC 5-13-7-4 - States that for the purposes of IC 5-13-7 and IC 5-13-8, the term "political subdivision" does not include a city or a town. Requires a city or a town to deposit funds not later than the next business day following the receipt of the funds in depositories selected by the city or town as provided in an ordinance adopted by the city or town.

OPTICAL IMAGING - Amends IC 5-15-6-3 - States that an optical image of a check is an original record when the check is recorded, copied, or reproduced by an optical imaging process and the drawer of the check receives an optical image of the check after the check is processed for payment. Original records may be disposed of only in accordance with State Commission on Public Records guidelines. Guidelines pertaining to financial records disposal must be approved by the State Board of Accounts

PUBLIC LAW 10 - HOUSE ENROLLED ACT 1542 (Continued)

EDIT TAX - LAPORTE COUNTY - Amends IC 6-3.5-1.1-3.1- Allows the Laporte County Council to adopt or increase the EDIT tax rate under IC 6-3.5-7 in the same years that the County Council decreases the CAGIT tax rate.

WATER, GAS AND ELECTRIC UTILITY DEPOSITS - Amends IC 32-9-1.5-1 - Allows municipally owned water, gas, and electric utilities to retain unclaimed meter deposits.

TEMPORARY LOANS - Amends IC 36-1-8-4 - Allows a city or town council to extend the period of transfer for a temporary loan up to six (6) months beyond the budget year if an emergency exists. Councils extending such loan periods must forward a copy of the ordinance or resolution authorizing such extension to both the State Board of Accounts and the State Board of Tax Commissioners.

STATE MATCHING GRANTS - Adds IC 36-1-8-12 - Requires cities and towns that receive State grants requiring a local match to create a special fund for deposit of the grant and the local match.

CITY MANAGERS - THIRD CLASS CITIES - Adds IC 36-4-12 - Allows a third class city to adopt an ordinance to employ a nonpartisan city manager to be the administrative head of city government.

- CLERK-TREASURER'S LIABILITY - Amends IC 36-5-6-6 - States that a town clerk-treasurer is not liable in an individual capacity, for any act or omission occurring in connection with the performance of the requirements set forth in IC 36-5-6-6(a) unless the act constitutes gross negligence or intentional disregard of the requirements.

REDEVELOPMENT COMMISSIONS - Amends IC 36-7-14-7- Allows a redevelopment commissioner who does not hold a lucrative office to be paid a salary or a per diem.

SEWER LIENS - Amends IC 36-9-23-33 - Allows sewer liens to be recorded at anytime after the charges become delinquent.

LOCAL GOVERNMENT FINANCE STUDY COMMISSION - NONCODE - Requires the commission to study rights of way and easements in municipalities as they relate to public utilities and property taxes.

PUBLIC LAW 12 - HOUSE ENROLLED ACT 1072 - EFFECTIVE JULY 1, 1997

JUDGES' RESIDENCY- CITY COURTS - Amends IC 3-8-21-28.1 - Requires candidates for the office of city court judge in Lake County to be a resident of the city in primary elections or a resident of the county when filling a vacancy on a ballot.

GARY, HAMMOND, EAST CHICAGO, HOBART AND MERRILLVILLE COURTS- Amends IC 33-10.1-2-4 - Eliminates concurrent jurisdiction with a county superior court for statute violations.

PUBLIC LAW 14 - SENATE ENROLLED ACT 278 - EFFECTIVE JULY 1, 1995 (Retroactive) and July 1, 1997- URBAN ENTERPRISE ASSOCIATIONS - Amends IC 4-4-6.1-1-

Requires an enterprise zone board to provide copies of forms filed with such board to an urban enterprise association if the association requests such copies of the forms. Allows certain incentives to zone businesses. Retroactive to July 1, 1995.

PUBLIC LAW 19 - HOUSE ENROLLED ACT 1945 - EFFECTIVE JULY 1, 1997

PUBLIC RECORDS LAW - Amends IC 5-14-3-9 - Adds to the denial of access section of law to include procedures to use for requests made by facsimile or by telephone.

Facsimile transmissions are to be handled the same as requests made in writing.

Telephone requests are to be handled the same as oral requests.

PUBLIC LAW 21 - SENATE ENROLLED ACT 178 - EFFECTIVE JULY 1, 1997

STATE SURPLUS COMPUTER HARDWARE - Adds IC 4-13-2-12.6 and IC 4-13-2-12.7-

Requires surplus computer hardware to be offered first to an educational entity.

PUBLIC LAW 22 - SENATE ENROLLED ACT 472 - EFFECTIVE JULY 1, 1997

COLLECTION AGENCIES - Amends IC 5-17-4. Adds IC 5-22-6.5. Allows cities and towns to award contracts for collection services using any procedure authorized by statute.

PUBLIC LAW 28 - HOUSE ENROLLED ACT 1784 - EFFECTIVE JANUARY 1, 1998

WITHHOLDING TAXES - Amends IC 6-3 - Requires electronic funds transfer of the tax to the Department of Revenue if the average monthly tax liability exceeds \$10,000.

PUBLIC LAW 31 - SENATE ENROLLED ACT 226 - EFFECTIVE JULY 1, 1997

STATE HISTORICAL MARKERS - Amends IC 4-23-7.2. Allows local matching funds to be used to fund the Indiana historical marker program.

PUBLIC LAW 32 - SENATE ENROLLED ACT 163 - EFFECTIVE JULY 1, 1997

COMMISSION ON INTERGOVERNMENTAL RELATIONS - Amends IC 4-23-24.2 - Makes changes to procedures used in filling member vacancies.

PUBLIC LAW 37 - SENATE ENROLLED ACT 168 - EFFECTIVE JULY 1, 1997

PROTECTIVE ORDERS - Amends IC 5-2-9-2.1, IC 35-42-2, and IC 35-46-1. Requires protective orders to be captioned in a manner that indicates the type of order issued and the section of the Indiana Code that authorizes the protective order.

PUBLIC LAW 38 - HOUSE ENROLLED ACT 1370 - EFFECTIVE VARIOUS DATES -

PUBLIC NOTICE ADVERTISING - Amends and adds to IC 5-3-1 - States that if no newspaper is published in a city or town, then publication in a newspaper published in the county and that circulates within the city or town is sufficient public notice. Eliminates the requirement that cities and towns designate newspapers and qualified publications at their first meeting in January.

PUBLIC LAW 40 - SENATE ENROLLED ACT 327 - EFFECTIVE JULY 1, 1997

1925, 1937, 1953 AND 1977 POLICE AND FIRE PENSION PLANS - Amends IC 36-8-6, IC 36-8-7, IC 36-8-7.5 and IC 36-8-8 - Reinstates survivor's benefits for surviving spouses who remarried before September 1, 1983. Makes changes in the laws affecting police matron retirement benefits.

PUBLIC LAW 43 - HOUSE ENROLLED ACT 1584 - EFFECTIVE VARIOUS DATES

PUBLIC EMPLOYEES RETIREMENT FUND (PERF) - Adds IC 5-10.2-2-2.5 and IC 5-10.2-7. Amends IC 5-10.2-2-3 and IC 5-10.2-2-4 - Makes several changes to procedures to be followed by members who have placed their annuity savings accounts in alternative investment funds. Allows PERF board to establish a voluntary supplemental retirement plan for members.

PUBLIC LAW 45 - HOUSE ENROLLED ACT 1339 - EFFECTIVE JULY 1, 1997
SOLID WASTE MANAGEMENT DISTRICTS

CLAIMS - Eliminates the requirement for vendor signatures on claims.

POWERS - Amends IC 13-21-3-12- Limits certain powers of the districts.

ANNUAL REPORT - Adds IC 13-21-3-13.5 - Requires an annual report to be submitted to be the Environmental Quality Service Council.

FINAL DISPOSAL FEES - LAPORTE COUNTY - Amends IC 13-21-13-1 - Limits the maximum final disposal fee in Laporte County to \$2.50 a ton.

PUBLIC LAW 46 - SENATE ENROLLED ACT 9 - EFFECTIVE UPON PASSAGE.

PUBLIC DEPOSITORY LAW - Amends IC 5-13-7, IC 5-13-8, IC 5-13-9, IC 5-13-9.5, IC 5-13-10.5, and IC 36-10-9. Repeals IC 5-13-8-8. Eliminates certain language which indicated a local board of finance designated depositories. Requires a local board of finance to notify the State board of depositories of any depository revocation not later than 30 days after revoking a commission of a depository. Eliminates the requirement of a local board of finance to file a list of designated depositories with the State Board of Depositories.

PUBLIC LAW 47 - SENATE ENROLLED ACT 10 - EFFECTIVE MAY 13, 1997

OPTICAL IMAGING - Amends IC 5-15-6-3 - States that the term "original records" includes the optical image of a check when the check is recorded, copies or reproduced by an optical imaging process described in IC 5-15-6-3(e) and the drawer of the check receives an optical image of the check after the check is processed for payment. (Also see similar language in Public Law 10.)

PUBLIC LAW 48 - HOUSE ENROLLED ACT 1067 - EFFECTIVE JULY 1, 1997

HANDICAPPED PARKING - ENFORCEMENT OF VIOLATIONS

Allows a city or town law enforcement agency to appoint volunteers to issue summonses and complaints for violations.

PUBLIC LAW 49 - HOUSE ENROLLED ACT 1158 - EFFECTIVE JULY 1, 1998

PUBLIC PURCHASING - Adds IC 5-22 - Deletes IC 36-1-9 - Makes significant changes to public purchasing procedures effective July 1, 1998.

PUBLIC LAW 52 - HOUSE ENROLLED ACT 1536 - EFFECTIVE JULY 1, 1997

CITY AND TOWN CEMETERIES - Adds IC 23-14-65 - Repeals IC 23-14-1 through IC 23-14-30 - Revises city and town cemetery laws. States that the legislative body of a city or town has control and management of a cemetery owned by the municipality unless such control is transferred by ordinance to a board of cemetery regents. Allows a city or town to levy a tax to take care of cemeteries located within one-half (½) mile of the corporate limits of the city or town.

PUBLIC LAW 56 - HOUSE ENROLLED ACT 1536 - EFFECTIVE JULY 1, 1997
BOND ISSUES - PETITIONS AND REMONSTRANCES - Amends IC 6-1.1-20. Adds IC 36-2-9-19. Requires State Board of Accounts to prescribe petition and remonstrance forms and verification procedures.

PUBLIC LAW 57 - HOUSE ENROLLED ACT 1777 - EFFECTIVE JANUARY 1, 1997 AND JANUARY 1, 1998 - HOMESTEAD CREDIT - Amends IC 6-1.1-20.9-2 - Raises the homestead credit from 6% to 10% in 1998.

PUBLIC LAW 66 - HOUSE ENROLLED ACT 1811 - EFFECTIVE JULY 1, 1997
LOCAL DISASTER EMERGENCIES - Amends IC 10-4-1-23 - States that if a local disaster emergency is declared, a city or town may not prohibit individuals engaged in employment necessary to maintain a safe rule system, restore utility service, or provide other emergency public service from traveling on city or town streets during the emergency.

PUBLIC LAW 68 - HOUSE ENROLLED ACT 1501 - EFFECTIVE MAY 12, 1997
WHITE COUNTY INNKEEPER'S TAX - Adds IC 6-9-10.5 - Establishes a new innkeeper's tax in White County to be used to enhance lakes located in the county.

PUBLIC LAW 69 - SENATE ENROLLED ACT 200 - EFFECTIVE APRIL 6 AND JULY 1, 1997
HOWARD COUNTY HOTEL, MOTEL, TOURIST CAMP TAX - Amends IC 6-9-16 - Increases the membership of the convention and visitor commission from 5 to 7 members. Gives the Mayor of the City of Kokomo one more appointment to the commission. Allows the Howard County Council to increase the tax to 5%.

PUBLIC LAW 70 - SENATE ENROLLED ACT 32 - EFFECTIVE JULY 1, 1997
ALCOHOLIC BEVERAGE PERMITS - Adds IC 7.1-3-1-5.3. Allows a plan commission director in a second or third class city to request that the Alcoholic Beverage Commission (ABC) notify the plan commission of any applications filed for ABC permits within the territory where the plan commission has jurisdiction.

PUBLIC LAW 71 - HOUSE ENROLLED ACT 1109 - EFFECTIVE JULY 1, 1997
ALCOHOLIC BEVERAGE PERMITS - Amends IC 7.1-3-1-25 - Allows all second class cities to obtain an alcoholic beverage permit to permit the sale of alcohol in stadiums, convention centers, auditoriums, theaters, exhibition halls or civic centers owned by second class cities.

SECOND CLASS CITIES - POPULATION DECREASES - Amends IC 36-4-1-1
Allows a second class city to permanently remain a second class city even through its population falls below 35,000.

ANNEXATION - TOWN OF PLAINFIELD - Amends IC 36-4-3-4.1 - Limits annexation in the Town of Plainfield to territory located within the township the Town is located.

PUBLIC LAW 73 - HOUSE ENROLLED ACT 1969 - EFFECTIVE
BEER RETAILERS PERMITS - Amends IC 7.1-3-4-2 - Allows elected city or town officials to obtain a beer retailer's permit.

PUBLIC LAW 74 - HOUSE ENROLLED ACT 1949 - EFFECTIVE MAY 13, 1997

LIQUOR STORE DEALER'S PERMITS - Amends IC 7.1-3-22 - Limits the number of liquor store dealer's permits that the Alcoholic Beverage Commission can issue to one permit per 8,000 persons or fraction thereof, within an incorporated city or town.

PUBLIC LAW 77 - SENATE ENROLLED ACT 179 - EFFECTIVE JULY 1, 1997

ALCOHOLIC BEVERAGE PERMITS - MONROE COUNTY - Amends IC 7.1-3-21-11- Allows the local alcoholic beverage board to waive the 200 foot distance requirement from a church or school for a premises in which alcohol is sold.

PUBLIC LAW 79 - HOUSE ENROLLED ACT 1714 - EFFECTIVE MAY 1, 1997 AND JULY 1, 1997-HYDRANT RENTAL - Amends IC 8-1-2-103 - States that a water utility customer who lives outside a city or town's limits and is not within 1,000 feet of a fire hydrant must be excluded from the increase in rates where a city or town is recovering hydrant rental charges from utility customers.

PUBLIC LAW 88 - HOUSE ENROLLED ACT 1555 - EFFECTIVE JULY 1, 1997

PORT AUTHORITIES - Amends IC 8-10-5-5 - Requires a port authority director to be a resident of the county where the authority is established. Requires that a majority of the directors be residents of the political subdivisions from which the members were appointed.

PUBLIC LAW 90 - HOUSE ENROLLED ACT 1406 - EFFECTIVE JULY 1, 1997

RIVERBOAT FUND - Adds IC 36-1-8-9 - Allows a city that receives admissions or gambling taxes to establish a riverboat fund to be used for any legal purpose of the city. Cities and towns receiving shared revenue from a county or a city under an agreement may also establish such fund.

PUBLIC LAW 91 - HOUSE ENROLLED ACT 1206 - EFFECTIVE JULY 1, 1997

EVANSVILLE - VANDERBURGH COUNTY AIRPORT DEVELOPMENT PROJECTS - Amends and adds to IC 8-22-3.5 - Allows for certain business credits to businesses within an airport development zone.

PUBLIC LAW 92 - HOUSE ENROLLED ACT 1079 - EFFECTIVE JULY 1, 1997

ABANDONED VEHICLES - Amends IC 9-22-1 - Allows a city or town to adopt an ordinance allowing for certain vehicles to be disposed of at a scrap yard where the market value is equal to or less than \$500. Makes several changes to the sections of law affecting abandoned vehicles disposal procedures in the City of Indianapolis.

PUBLIC LAW 94 - SENATE ENROLLED ACT 277 - EFFECTIVE VARIOUS DATES

FINANCIAL RESPONSIBILITY - TRAFFIC CASES - Amends IC 9-25-9 and IC 9-25- - Provides for expungement of Bureau of Motor Vehicle records in certain cases where a person had financial responsibility but failed to notify the Bureau.

PUBLIC LAW 98 - HOUSE ENROLLED ACT 1045 - EFFECTIVE JULY 1, 1997

AUTO LICENSE BRANCHES IN DEALERSHIPS - CITY OF GARY - Amends IC 9-23-2- Requires an auto dealer to file an affidavit with a zoning enforcement officer that states that the dealer's proposed location is zoned for such type of business before an offsite license can be issued by the Bureau of Motor Vehicles.

PUBLIC LAW 100 - SENATE ENROLLED ACT 305 - EFFECTIVE JULY 1, 1997

TRAFFIC CASES - FINANCIAL RESPONSIBILITY - Amends IC 9-25-8-2 - Changes the penalty for violation of the financial responsibility laws from a Class C misdemeanor to a Class A infraction.

PUBLIC LAW 101 - SENATE ENROLLED ACT 485 - EFFECTIVE JULY 1, 1997

TRAFFIC - HABITUAL OFFENDERS - Amends IC 9-30-10- Permits a convicted habitual traffic offender to petition for reinstatement of driving privileges after a certain number of years.

PUBLIC LAW 122 - SENATE ENROLLED ACT 404 - EFFECTIVE JULY 1, 1997

ALCOHOL AND DRUG SERVICES PROGRAMS - Amends and adds to IC 12-23-14 - Requires approval by the Indiana Judicial Center before a program can be established.

PUBLIC LAW 124 - SENATE ENROLLED ACT 319 - EFFECTIVE MAY 13, 1997

POLLUTION PREVENTION - Amends and adds several articles in title 13. Creates a new clean manufacturing technology board to replace the pollution prevention board. Creates the Indiana Clean Manufacturing Technology and Safe Materials Institute.

PUBLIC LAW 129 - HOUSE ENROLLED ACT 1541 - EFFECTIVE JULY 1, 1997

SOLID WASTE - Amends and adds to IC 13-11-2 and IC 13-19-3 - Eliminates certain types of materials from the list of special waste materials such as fire brick and factory slag materials. Requires a task force be established to study the use of shredder fluff.

PUBLIC LAW 130 - SENATE ENROLLED ACT 297 - EFFECTIVE JULY 1, 1997

ADMINISTRATIVE RULES-AIR POLLUTION CONTROL, WATER POLLUTION CONTROL AND SOLID WASTE MANAGEMENT BOARDS - Amends IC 13-14-9 - Requires a third public comment period before adoption of a rule in certain instances.

PUBLIC LAW 132 - SENATE ENROLLED ACT 169 - EFFECTIVE JULY 1, 1997

WASTE TIRES - Adds IC 13-20-14-10 - Allows a person to dispose of a whole waste tire at a land excavation site associated with a mineral extraction operation under certain circumstances.

PUBLIC LAW 133 - HOUSE ENROLLED ACT 1917 - EFFECTIVE JULY 1, 1997

REGIONAL WATER, SEWAGE AND SOLID WASTE DISTRICTS - Amends IC 13-26-2 - Requires a copy of the petition to start such district be filled with the executive branch of each governmental entity having territory within the proposed district.

PUBLIC LAW 143 - SENATE ENROLLED ACT 217 - EFFECTIVE JULY 1, 1997

CONSERVANCY DISTRICTS - Amends IC 14-33-16-1 - Allows a circuit court to rule that a district has more than 6 years to commence construction on improvements.

PUBLIC LAW 173 - SENATE ENROLLED ACT 483 - EFFECTIVE JULY 1, 1997

UNAUTHORIZED SOLICITATION - Adds IC 24-4.6-3 - Prohibits the unauthorized use of the name of a public safety agency in soliciting donations from the public.

PUBLIC LAW 204 - HOUSE ENROLLED ACT 1057 - EFFECTIVE JULY 1, 1997

JUROR FEES - Amends IC 33-19-1-4 - Raises the minimum juror fees for jurors of a city or town court from \$5 to \$15 per day.

JURY FEE - Adds IC 33-19-6-17 - Establishes a \$2 jury fee on all criminal, infraction and ordinance violation cases.

DEFERENTIAL PROGRAM FEE - Amends IC 33-19-5-2 - Raises the initial user's fee from \$50 to \$52.

PUBLIC LAW 205 - SENATE ENROLLED ACT 115 - EFFECTIVE JULY 1, 1997

SMALL CLAIMS CASES - Amends IC 33-19-5-5 - Raises the court costs for small claims actions in all counties to \$35. COURT COSTS -NONCODE-Appropriates moneys from the State general fund to each county to make up for a shortfall under Public Law 216-1996.

PUBLIC LAW 206 - HOUSE ENROLLED ACT 1728 - EFFECTIVE JULY 1, 1997

UNLAWFUL DUMPING - Amends IC 34-1-52-2 - States that a city or town that brings a successful action to abate or enjoin a nuisance caused by the unlawful dumping of solid waste is entitled to recover reasonable attorney's fees incurred in bringing the action.

PUBLIC LAW 208 - HOUSE ENROLLED ACT 1059 - EFFECTIVE JULY 1, 1997

PARENTAL LIABILITY - ACTS OF CHILDREN - Amends IC 34-4-31-1 - A parent is liable for not more than \$5,000 in actual damages arising from harm to a person or damage to property caused by the parent's child. Prior law limited such liability to \$3,000.

PUBLIC LAW 210 - SENATE ENROLLED ACT 244 - EFFECTIVE JULY 1, 1997

COURTS - BATTERY CASES-SENTENCING - Amends IC 35-38-1 and IC 35-41-1-3.3, and IC 35-4-3-11 - Makes several changes to the laws dealing with the use of evidence of the effects of battery in certain cases.

PUBLIC LAW 213 - HOUSE ENROLLED ACT 1671 - EFFECTIVE JULY 1, 1997

LAW ENFORCEMENT ANIMALS - Amends IC 35-43-1-2 and IC 35-46-3-11. Adds IC 35-46-3-4.5. Redefines a dog or a horse owned by a law enforcement agency as a law enforcement animal. Makes changes to the laws listing penalties for conviction of injuring or killing a law enforcement animal.

PUBLIC LAW 214 - HOUSE ENROLLED ACT 1230 - EFFECTIVE JULY 1, 1997

IMPERSONATION OF A LAW ENFORCEMENT OFFICER - Amends IC 35-44-2-3 - Makes it a Class D felony to impersonate a law enforcement officer.

PUBLIC LAW 216 - SENATE ENROLLED ACT 265 - EFFECTIVE JULY 1, 1997

UNLAWFUL SOLICITATION - Adds IC 35-45-14 - States that a person who is not an attorney and who knowingly or intentionally solicits, advises, requests, or induces another person to bring an action for damages and receives compensation from an attorney for making the solicitation commits Class A misdemeanor.

PUBLIC LAW 219 - SENATE ENROLLED ACT 130 - EFFECTIVE JULY 1, 1997

CRIMES OF VIOLENCE - Amends IC 35-50-1-2 - Adds causing death when operating a motor vehicle under IC 9-30-5-5 to the list of violent crimes.

PUBLIC LAW 220 - SENATE ENROLLED ACT 131 - EFFECTIVE JULY 1, 1997

AGGRAVATED BATTERY CASES - Amends IC 35-50-2-2- Adds aggravated battery cases to the list of crimes for which a court may suspend only that part of the sentence that is in excess of the minimum sentence.

PUBLIC LAW 221 - SENATE ENROLLED ACT 31 - EFFECTIVE JULY 1, 1997

LAND PURCHASES - WATER UTILITIES - Amends IC 36-1-10.5-1 - Exempts municipally owned water utilities from the requirements of IC 36-1-10.5 when purchasing of land if the water utility has sampling and drilling tests that indicate the land contains water resources. Allows a city or town council to request a public water utility operating within a city or town's boundaries to remove a water contaminant from the public water utility's wells. Any determination made by a city or town council that would increase any customer's monthly payment by more than one percent (1%) would require approval of the Indiana Utility Regulatory Commission.

PUBLIC LAW 223 - HOUSE ENROLLED ACT 1036 - EFFECTIVE MAY 12, 1997 AND JULY 1, 1996 (Retroactive) PUBLIC EMPLOYEES RETIREMENT FUND (PERF) - Adds IC 5-10-0.5- States that the prohibitions of Article 11, Section 12 of the State Constitution do not apply to investments in stock made by the PERF Board.

PUBLIC LAW 224 - SENATE ENROLLED ACT 140 - EFFECTIVE JULY 1, 1997

ANNEXATION - Amends IC 36-4-3-4.1 - Exempts the towns of Cedar Lake and Lowell from the annexation provisions contained in subsection (b)(2) of IC 36-4-3-4.1.

PUBLIC LAW 225 - HOUSE ENROLLED ACT 1085 - EFFECTIVE JULY 1, 1997

AREA PLAN COMMISSIONS - Amends IC 36-7-4-207 - Changes the language dealing with the number of county representatives on an area plan commission.

PUBLIC LAW 226 - HOUSE ENROLLED ACT 1322 - EFFECTIVE JULY 1, 1997

AREA PLAN COMMISSIONS - Amends IC 36-7-4-209 and IC 36-7-4-907 - Allows for alternate members for the area plan commissions and boards of zoning appeals.

PUBLIC LAW 227 - STATE ENROLLED ACT 268 - EFFECTIVE JULY 1, 1997

HISTORIC PRESERVATION COMMISSIONS - Amends and adds to IC 36-7-11. Changes the name of a historical district board of review to historic preservation commission. Requires membership of such commissions to include professionals in disciplines related to historic preservation, if possible. Provides for interim protection of certain historic buildings. Allows for the ordinance establishing the commission to authorize the commission to own and dispose of real property.

PUBLIC LAW 229 - HOUSE ENROLLED ACT 1686 - EFFECTIVE APRIL 23, 1997

MILITARY BASE REUSE PROPERTY - Amends IC 36-7-30-1, Adds IC 36-7-30-33- Allows a municipally owned utility to provide and acquire, through any means and without appraisal, water, sewer, electric and storm water services to an air force military base or air force military base property under a negotiated agreement.

PUBLIC LAW 230 - HOUSE ENROLLED ACT 1150 - EFFECTIVE JANUARY 1, 1999

POLICE AND FIRE RESIDENCY - Amends IC 36-8-4-2 -

Allows cities and towns that have established a board of metropolitan police commissioners with a population of less than seven thousand five hundred (7,500), to adopt an ordinance that requires a member of the municipality's police or fire department to comply with the following: (1) reside within the county in which the municipality is located. (2) have adequate means of transportation into the municipality, and (3) maintain in the member's residence telephone service with the municipality.

A municipality that: (1) has a population of less than seven thousand five hundred (7,500); and (2) adopted an ordinance to establish the requirements before September 1, 1984, may require, in addition to the requirements of IC 36-8-4-2(c), that a member of the police or fire department reside within the municipality until the member has served in the department for five (5) years.

An ordinance adopted under IC 36-8-4-2(c) or described in IC 36-8-4-2(d)(2) may not require a member of a municipality's police or fire department to reside within the county in which the municipality is located if the member resides outside the county on the date the ordinance is adopted.

PUBLIC LAW 231 - HOUSE ENROLLED ACT 1387 - EFFECTIVE JULY 1, 1997

1925, 1937 AND 1977 POLICE AND FIRE PENSION PLANS - Amends IC 36-8-6, IC 36-8-7, and IC 36-8-8 - Requires benefits of the old plans to be paid in not less than 12 equal monthly installments. Raises the minimum benefit for a child under the age of 18 of a deceased member from 10% to 20% of the salary of a first class patrolman or firefighter. Raises benefits for mentally or physically incapacitated child at least 18 who is the son or daughter of a deceased member.

PUBLIC LAW 232 - HOUSE ENROLLED ACT 1361 - EFFECTIVE JULY 1, 1997

1977 POLICE AND FIRE PENSION PLAN - Amends IC 36-8-8-10 - States that if a fund member (1) becomes fifty-five (55) years of age; or (2) retires on a date other than on the first day of the month; the amount due the fund member for the initial partial monthly benefit is payable together with the regular monthly benefit on the first of the month following the date the fund member becomes fifty-five (55) years of age or retires, whichever is later.

PUBLIC LAW 235 - SENATE ENROLLED ACT 238 - EFFECTIVE JULY 1, 1997

REGIONAL TRANSPORTATION AUTHORITIES - Amends IC 36-9-3. Allows a city or town to establish a regional transportation authority.

PUBLIC LAW 236 - HOUSE ENROLLED ACT 1117 - EFFECTIVE JULY 1, 1997

SEWER LIENS - Amends IC 36-9-23-33 - Allows an officer charged with the collection of sewer fees and penalties to record sewer liens up to four (4) times in any calendar year. Allows the board over a sewage works to write off a fee or penalty that is less than forty dollars (\$40).

PUBLIC LAW 237 - HOUSE ENROLLED ACT 1711 - EFFECTIVE JULY 1, 1997

DELINQUENT FEES - SANITARY DISTRICTS - Adds IC 36-9-25-11.2 - States that if a fee is not paid within 30 days after it is due, a copy of any notice of delinquency sent to a delinquent user who is a tenant must be sent to the owner of the property occupied by the tenant at the latest address of the owner as shown on the property tax records of the county in which the property is located.

PUBLIC LAW 238 - HOUSE ENROLLED ACT 1434 - EFFECTIVE JULY 1, 1997

PARK AND RECREATION BOARDS - SALARIES OF MEMBERS - Amends IC 36-10-3-9
Removes the \$300 limit on board member salaries. Allows a city or town fiscal body to set park and recreation board member salaries at any amount. Further provides that a city or town fiscal body can approve per diems to be paid to park and recreation board members for attending meetings.

PUBLIC LAW 239 - SENATE ENROLLED ACT 75 - EFFECTIVE APRIL 25, 1997

LAKE WORK GROUP - NONCODE - Establishes a 26 member work group to develop solutions for the problems affecting the lakes of Indiana.

PUBLIC LAW 241 - SENATE ENROLLED ACT 139 - EFFECTIVE JULY 1, 1997

NORTHWEST INDIANA COMMUTER RAIL AND TRANSPORTATION STUDY COMMISSION - NONCODE - Expands membership of the commission to include representation from Elkhart and St. Joseph counties.

PUBLIC LAW 242 - SENATE ENROLLED ACT 194 - EFFECTIVE APRIL 30, 1997

LOCAL GOVERNMENT FINANCE STUDY COMMISSION - NONCODE - Makes several technical corrections to the original 1992 Public Law establishing the commission.

PUBLIC LAW 246 - SENATE ENROLED ACT 427 - EFFECTIVE MAY 6, 1997

REGULATORY FLEXIBILITY COMMITTEE - NONCODE - Requires such committee established under IC 8-1-2.6-4 to study competition and deregulation in the electric utility industry.

PUBLIC LAW 247 - HOUSE ENROLLED ACT 1141- EFFECTIVE JANUARY 1, 1997(Retroactive)

LEVY LIMITATIONS - ARMSTRONG TOWNSHIP - VANDERBURGH COUNTY - Allows the township to increase its levy in an amount necessary to pay the costs of furnishing fire protection.

PUBLIC LAW 248 - HOUSE ENROLLED ACT 1301 - EFFECTIVE MAY 1, 1997

OPEN BURNING OF LEAVES - NONCODE - A unit of local government may allow open burning of leaves at a residence in both an unincorporated area and an ozone nonattainment area if the burning occurs between October 1 and November 30 or between April 1 and April 30.

PUBLIC LAW 250 - HOUSE ENROLLED ACT 1587 - EFFECTIVE MAY 12, 1997

CITY OF EVANSVILLE - NONCODE - Requires the University of Evansville to use the proceeds from the sale of certain real estate on improvements to property owned by the City of Evansville.

PUBLIC LAW 252 - SENATE JOINT RESOLUTION - EFFECTIVE APRIL 10, 1997

VOTER RESIDENCY - Amends Article 2, Sessions 2, 3, and 4 and Article 16, Section 1 of the State Constitution - Changes voter residency requirements to allow members of the armed forces stationed in Indiana to vote. Allows citizens who cease to be residents of a precinct to vote in that precinct if their names appear on registration rolls.

PUBLIC LAW 253 - SENATE ENROLLED ACT 5 (ss) - EFFECTIVE JULY 1, 1997

ELECTRONIC DIGITAL SIGNATURES ACT - Adds IC 5-24 - Allows the State to use electronic digital signatures.

PUBLIC LAW 260 - SENATE ENROLLED ACT 6 (ss) - EFFECTIVE JULY 1, 1997

LATE PAYMENT PENALTY - Amends IC 5-17-5-1 - States that payment is timely if a check or warrant is mailed or delivered, where no date is specified, within 35 days of receipt of the goods or services, or receipt of a properly completed claim.

ELECTED OFFICIALS - LEAVE POLICY

We have received questions concerning the authority (or need) for elected officials to be included in the municipality's vacation leave, sick leave, death leave, or other such leave policy.

Our audit position is that an elected official's compensation goes with the office. This means that the elected official receives his (or her) salary as long as the office to which the official was elected performs the duties and responsibilities of this office. Whether the elected official personally does the work, whether the elected official personally maintains office hours, or whether the elected official shows up at the office has no bearing on the official's right to be compensated. Keep in mind this relates only to elected officials. The ghost employee statute, IC 35-44-2-4, prohibits payment to other city or town employees if they did not properly perform city or town duties assigned and maintain hours as directed by the proper governing body.

In those few instances where elected officials choose to be included in such employee benefit policy (and were included in the authorizing ordinance), the officials must maintain proper attendance records (the same as all other city and town employees) which shall clearly disclose days worked, days missed, type of leave taken, etc. This decision certainly cannot be made just prior to the close of the official's term.

A city or town council is authorized to "grant vacation with pay, sick leave, paid holidays, and other similar benefits by ordinance" to "employees of the political subdivision" pursuant to IC 5-10-4-1. The term "employees" is not defined.

UNPAID PARKING TICKET FINES

If it appears from the records of a court that has jurisdiction to enforce ordinances that regulate parking violations that three (3) judgements concerning a motor vehicle have not been paid before the deadlines established by a statute, an ordinance, or a court order, the clerk of the court shall send a notice to the person who is the registered owner of the motor vehicle. The notice must inform the person of the following:

- (1) That the clerk will send a referral to the bureau of motor vehicles if the judgements are not paid within thirty (30) days after the notice was mailed.
- (2) That the referral will result in the suspension of the motor vehicle's registration if the judgements are not paid.

A clerk may send a referral to the bureau of motor vehicles if the judgements are not paid not later than thirty (30) days after a notice was mailed. The referral must include the following:

- (1) Any information know or available to the clerk concerning the following of the motor vehicle:
 - (a) The license plate number and year of registration.
 - (b) The name of the owner.
- (2) The date on which each of the violations occurred.

UNPAID PARKING TICKET FINES

(Continued)

(3) The law enforcement agencies responsible for the parking citations.

(4) The date when the notice required under IC 9-30-11-3 was mailed.

(5) The seal of the clerk. (IC 9-30-11-3 and IC 9-30-11-4)

If the city or town enforces parking violations through an ordinance violations bureau, then the city or town attorney would be required to bring action to enforce nonpayment of parking fines in county, city or town court before the provisions of IC 9-30-11 could be used.

SURPLUS BOND PROCEEDS

IC 5-1-13-2 provides that when bonds have been issued for any lawful purpose, and the purpose for which the debt was incurred has been accomplished or abandoned, the surplus or balance in such bond fund may be transferred to the bond and interest redemption fund by the disbursing officer upon order of the legislative body. The funds so transferred are to be used for the payment of interest bearing indebtedness.

ECONOMIC DEVELOPMENT INCOME TAX (EDIT) FUND

The fiscal officer of each city or town in a county in which the county economic development tax is imposed shall establish an economic development income tax fund. The revenue received by a city or town shall be deposited in the unit's economic development income tax fund.

Except as provided in IC 6-3.5-7-15, revenues from the county economic development income tax may be used as follows:

By a city or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under IC 6-3.5-7-14 for economic development projects, for leases under IC 6-3.5-7-21 or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose at the time the lease was entered into or the bonds were issued.

A city or town may also use EDIT revenues for the following:

(1) The construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(2) The retirement of bonds issued under any provision of Indiana law for a capital project;

(3) The payment of lease rentals under statute for a capital project;

(4) Contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

ECONOMIC DEVELOPMENT INCOME TAX (EDIT) FUND

(Continued)

(5) Operating expenses of a governmental entity that plans or implements economic development projects;

(6) To the extent not otherwise allowed under IC 6-3.5-6-7, funding substance removal or remedial action in a designated unit; or

(7) Funding of a revolving fund established under IC 5-1-14-14.

An economic development project is any project that:

The city or town determines will:

(1) Promote significant opportunities for a gainful employment of its citizens;

(2) Attract a major new business enterprise to the unit; or

(3) Retain or expand a significant business enterprise within the unit; and

Involves an expenditure for:

(1) The acquisition of land;

(2) Interests in land;

(3) Site improvements;

(4) Infrastructure improvements;

(5) Buildings;

(6) Structures;

(7) Rehabilitation, renovation, and enlargement of buildings and structures;

(8) Machinery;

(9) Equipment;

(10) Furnishings;

(11) Facilities;

(12) Administrative expenses associated with such a project, including contract payments authorized under IC 6-3.5-7-13.1(2)(d);

(13) Operating expenses authorized under IC 6-3.5-7-13.1(2)(e); or

(14) To the extent not otherwise allowed under IC 6-3.5-7, substance removal or remedial action in a designated unit; or any combination of these. (IC 6-3.5-7-13.1)

ECONOMIC DEVELOPMENT INCOME TAX (EDIT) FUND

(Continued)

The fiscal body of a city or town may issue bonds payable from the county economic development income tax. The bonds must be for economic development projects as defined in IC 6-3.5-7-13.1. IC 6-3.5-7-14 lists certain restrictions on setting tax rates sufficient to pay off any bonds.

The executive of a city or town may:

- (1) Adopt a capital improvement plan specifying the uses of the revenues to be received; or
- (2) Designate the county or a city or town in the county as the recipient of all or a part of its share of the distribution.

If a designation is made under (2), the county treasurer shall transfer the share or part of the share to the designated unit unless that unit does not have a capital improvement plan.

A county, city or town that fails to adopt a capital improvement plan may not receive:

- (1) Its fractional amount of the certified distribution; or
- (2) Any amount designated for the year or years in which the unit does not have a plan. The county treasurer shall retain the certified distribution and any designated distribution for such a unit in a separate account until the unit adopts a plan.

Interest on the separate account becomes part of the account. If the unit fails to adopt a plan for a period of three (3) years, then the balance in the separate account shall be distributed to the other units in the county based on property taxes first due and payable to units during the calendar year in which the three (3) year period expires.

A capital improvement plan must include the following components:

- (1) Identification and general description of each project that would be funded by the county economic development income tax.
- (2) The estimated total cost of the project.
- (3) Identification of all sources of funds expected to be used for each project.
- (4) The planning, development, and construction schedule of each project.

A capital improvement plan:

- (1) Must encompass a period of no less than two (2) years; and
- (2) Must incorporate projects the cost of which is at least seventy-five percent (75%) of the fractional amount certified distribution expected to be received by the county, city or town in that period of time. (IC 6-35-7-15)

ACCOUNTS PAYABLE VOUCHER REGISTER, FORM 364, (1997)

Please be advised the Accounts Payable Voucher Register, General Form No. 364, has been revised with a letter to all printing suppliers, effective immediately. The Form now allows the option for the fiscal officer to sign the Register instead of each Accounts Payable Voucher. The language added reads as follows:

I hereby certify that each of the above listed vouchers and invoices or bills attached thereto, are true and correct and I have audited same in accordance with IC 5-11-10-1.6.

_____, 19____

Fiscal Officer